

THE
T R I A L

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O F
E D W A R D E L Y, *L*

FOR THE MURDER OF

C H A R L E S B I G N E L L,

IN THE

K I N G D O M O F S W E D E N;

LIEUTENANT of the WORCESTER, Captain BOYLE,

One of the FLEET in the BALTIC,

Under the Command of Sir JOHN NORRIS, in the YEAR 1720,

WITH THE

Particular CIRCUMSTANCES which Occasioned his DEATH,

Nearly similar to those which attended the DUEL between CAPTAIN
R—E, and LIEUTENANT FERGUSON, in which the lat-
ter was killed.

L O N D O N:

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T R I A L

JURY

FOR THE TRIAL OF
CHARLES BROWN

IN THE
COURT OF
COMMONS
OF THE
COUNTY OF
MIDDLESEX
IN THE
YEAR OF
OUR LORD
1845

THE
JURY
RETURNED
VERDICT
GUILTY

INTRODUCTION.

THE similitude of the circumstances which occasioned the death of Charles Bignell, with those which attended the dispute and duel between captain R*** and lieutenant Ferguson, and which proved so fatal to the latter, is the chief inducement for the publication of the following trial; the more especially as it is not generally known, and may serve to elucidate to the public some particular matters.

But prior to the trial, we shall beg leave to say a few words on the present common and fashionable mode of duelling; a practice, the pen cannot be too much employed against; nor can the laws be too strongly exerted to chastise the offenders.

First, then, let us examine into the principal cause of this absurd and wicked practice, which will be found no other than a false and mistaken notion of honour, urging particular men to commit desperate actions, for little personal gratifications, and mean, narrow, selfish views.

It has been judiciously observed, that false honour has been productive of more mischief to mankind, than ever real honour did good; as it affords the rash and malicious man a cloak to gratify a revengeful disposition, under the mask of honour. Thus the choleric bully, who catches fire at the least unguarded word of his companion, and, perhaps, jealously mistakes the meaning, deems himself injured, and without hesitation challenges a person, who possibly had no intention of giving an affront, nor any design to engage in a quarrel; and, according to the *nice* rules of false honour, is obliged to risk his life to the humour of a petulant coxcomb, or else be stigmatized with the appellation of a coward: for it is considered as a mark of true honour, that you must defend yourself with your sword, against one who has been the aggressor, and done you an injury. Thus the person who has given the affront, or has harmed you, very *honourably* gives you satisfaction, by taking away your life. This is esteemed to be a sufficient recompence, though not in the least consistent with justice, or common sense.

Of the absurdity of this too general opinion of honour, and the abuse of it, these mistaken heroes would be perfectly convinced, by duly weighing matters, before they entered upon them. By this prudential method, they would be taught, that by resisting the false idea of honour, and abiding by the cool

INTRODUCTION.

cool dictates of reason and judgment, that what does not strictly co-incide with a good conscience, a good heart, and good actions, is irrational, unjust, and vicious; and that to attempt to vindicate one crime by the committing of another still worse, is neither consonant with true honour, nor sound judgment.

It is greatly to be regretted, that one principal reason of dueling being so much in vogue, is, from the example of those whose duty it is to enact salutary laws; the vicious examples of the great, soon spreads their venom among those beneath them; and the best laws will never be regarded by the people, while a breach of them is continually made, and openly encouraged by their superiors.

We shall add a few words more on this abandoned taste, and view the parent of a family engaged in this nice contest, rather than give way to the dictates of reason; and with a mind superior to the ridiculous notions of the mistaken part of mankind, laugh and contemn their idle sarcasms: and although the call of nature likewise, the anxiety of his partner, the cries of his offspring, and all the tender ties of blood, not to mention the chief point, (and which in this enlightened age is so little regarded) what *religion* denies, imprudently throws away a life, to gratify the revengeful disposition of a ferocious wretch, who may think his honour attacked and his character aspersed.

In short, we shall conclude our Introduction with the definition and distinction of true and false honour, as laid down by a very learned man. "True honour (he says) is an attachment to honest and beneficent principles and a good reputation; and prompts a man to do good to others, and indeed to all men, at his own cost, pains, or peril. False honour is a pretence to this character, and does things to destroy it: and the abuse of honour is called honour, by those who from that good word borrow credit to act basely, rashly, or foolishly."

We fear we have trespassed too long on the readers patience; but, if this attempt to point out to the world, the dangerous effects that may ensue from a false and mistaken notion of honour, should have any weight, and prevent any one from pursuing the present mode of duelling, we shall not think the pen employed in vain.

(8)

THE
T R I A L
O F

EDWARD ELY, &c.

IN July, 1720, the grand jury, at the sessions then held at Justice-Hall in the *Old-Baily*, found a bill of indictment against Edward Ely, for the murder of lieutenant Charles Bignell, in the kingdom of Sweden, and a special commission was issued for his trial; but upon an affidavit, that several material witnesses in that case were then on board the fleet in the *Baltick*, under the command of Sir John Norris, the said commission and trial were adjourned

till

till the next sessions, and afterwards to the sessions in December following. And then,

Edward Ely was indicted by a special commission, pursuant to the statute of 39 *Hen.* 8. for the murder of Charles Bignell, in a certain island near the Dablers, in the kingdom of Sweden, by giving him, with a drawn sword, one mortal wound in the upper part of his breast above the left pap, of the length of half an inch, and the depth of twelve inches, on the 27th of September 1719, of which he instantly died.

Clement Courland. I am master of his majesty's ship the Worcester.-----And about eight o'clock on Friday night, September 25th, I went into my cabin, and was followed by the deceased, who was the first lieutenant; Mr. Cannon the surgeon, and the prisoner, who was surgeon's first mate. The prisoner then said to the deceased, " I have been on
" board the Defiance, and got the papers drawn out, and
" now I desire you to sign them."—These papers were for a sale to the prisoner, of the deceased's share of a prize taken by the Defiance, on the coast of Scotland.-----The deceased asked him, if another time would not do as well; to which the prisoner answered, no----" I will no longer
" be made a property of." The deceased replied, " I do
" not

“ not refuse to sign them, but I won’t be huffed into it ;
 “ and since you are so peremptory, I desire you to take
 “ your things out of my cabbin ; I have permitted you to
 “ lie there for some time, but now you shall find another
 “ lodging.” Next morning, I heard several abusive words
 pass between them upon the quarter-deck, till at last the
 deceased ordered the prisoner to go off, which he did ; but
 in a quarter of an hour he came up again, pulled off his
 hat, and told the deceased, that he had leave from captain
 Boyle, (the commander of the Worcester) to walk the quar-
 ter-deck whenever he pleased ; to which the other replied,
 “ you may walk and be damn’d.” The prisoner told me
 the same morning, that he had got the captain’s leave to
 go on shore when he would, to do himself justice. I advised
 him to let the quarrel die, or at least to defer it till they
 both came to England. He made light of what I said, and
 turned short went out of the cabbin. In the evening, he
 came upon deck, and told one of my mates, that the captain
 had given him leave for a boat to carry him on shore next
 morning. Next morning being Sunday, the prisoner came
 into my cabbin before I was up, and desired me to give him
 a dram, which when he had taken, he went out again ; and as
 soon as I arose, I was told, that he and the deceased were
 gone ashore together : in about a quarter of an hour the
 boat came aboard again with the dead body of the deceased,
 which

which had several wounds in it, and some of them quite through. Before this difference, the prisoner and the deceased were intimate friends, and the former had many times lent both money and necessaries to the other. The prisoner always appeared to be a man of a civil behaviour, and not in the least inclinable to quarrel; but the deceased had quite a different character. He and I had mess'd together for some time; but I at last parted messes with him, on account of his abusive language.

William Cannon, surgeon of the ship. Being in the master's cabin, I heard the prisoner ask the deceased to sign the papers. He answered, that he would not sign them, for there were times and seasons for all things. The other replied, that he would not be made a property of, and that the deceased should sign the papers and pay what he owed him, before he went out of the ship. The deceased told him, he would pay the money as soon as he had it, but would not sign the paper at all, for he was not to be huffed into it.

Soon after, as I and the deceased were walking on the quarter-deck, I saw his servant and the prisoner, taking the prisoner's things out of the deceased's cabin: after which the prisoner came up to us, and when he and the deceased began

began to reproach one another with former civilities; and among other things the deceased told him, that he was highly favoured in being allowed to walk the quarter-deck. To which the prisoner answered, "I have been admitted to the company of lieutenants on board other ships, as well as this, and have received as many favours from them, as ever I did from you. You, indeed, are my officer here, and insist upon privilege; but what are we when we are ashore?" The deceased replied, "Why then I am Charles Bignell, and you are Ned Ely." "I believe," says the prisoner, "you are like an old woman, that can do nothing but scold."

I went afterwards to the deceased, and advised him to sign the paper; telling him, I believed the prisoner was in drink, or else he would never have used him in such a manner. To which he answered, "Drink is no excuse for rudeness----he shall not lye in my cabin any longer, nor will I forgive him; for he has as good as challeng'd me----neither will I sign the paper, for I am not to be huffed into a compliance."

About ten or eleven next morning, the deceased was walking on one side of the quarter-deck, and the prisoner on the other. I went to the prisoner and asked him, where

he lay last night. "I lay," said he, "with Mr. Weston, the
 " second lieutenant, who gave me a can of flip before we went
 " to bed.—Mr. Bignell has ordered me off the quarter-
 " deck, but captain Boyle has not only ordered me on again,
 " but has assured me, that I shall do myself justice if I have
 " a mind to it." Then walking away, the deceased came
 up to me, and said, that the prisoner had challenged him
 before the whole quarter-deck, and told him, that if he
 did not do him justice, he would post him for a coward,
 I assured him, I was sorry for it, and again begged of him to
 sign the paper, that the difference might be ended.

Between two and three o'clock the prisoner came to me
 again upon quarter deck, and protested that he would do him-
 self justice, let the consequence be what it would. "Why
 " to-morrow is Sunday," says I, "and I hope you will
 " not do it then." To which he answered, "Do you take
 " me for a child? to-morrow is my birth-day, I shall then
 " be thirty years old, and perhaps it may be the day of my
 " death; I have but one life to lose." I told him, that if
 I should prevail with the deceased to sign the paper, I hoped
 it would put an end to the matter.—"Perhaps it may,
 " (says he) and perhaps it may not, it is as he will." I
 afterwards went to the deceased, and endeavoured to per-
 suade him to sign the paper, and thereby prevent the mis-
 chief

chief that might otherwise ensue ; “ but,” says he, “ you
 “ spend your breath in vain, for it is not consistent with
 “ my honour to sign it, because it would be to sign my-
 “ self a coward ; nor am I to be huffed and bullied into
 “ a compliance, my principles are as honest as any man’s,
 “ and I have no intention to wrong Mr. Ely, but to pay
 “ him as soon as I am able, and I had signed the paper before
 “ now, if he had not used me in such a manner ; but now I
 “ will never forgive him, nor drink, nor sit in company with
 him.” The next morning I was called up about six o’clock,
 and found the deceased lying dead on the quarter-deck ;
 he had eighteen wounds, one of which was over the left pap,
 passing through the left lobe of the lungs, and coming out
 under the arm-pit, which I judge to be the cause of his death.
 The prisoner was brought on board about half an hour after,
 and I dressed a wound he had received ; and on Saturday
 the 10th of October, following, he told me, that the cap-
 tain might have prevented what had happened. The pri-
 soner was a man that behaved himself very well, and was
 not given to quarrel. He was intimate with, and very ser-
 viceable to the deceased, who used to jangle with the offi-
 cers, and once he threatened to cane me when he met me
 on shore ; but I told him, that he should not serve me as he
 had served captain Clark.

Daniel

Daniel Clark, midshipman. I heard the deceased say to the prisoner, "What is the matter that you are so hasty to have the paper signed? I don't deny signing it, but another time will do as well." The prisoner answered, "I will not be made a property of." And then one (but I know not which of them) challenged the other; after which the deceased said, "The boat is now hoisting out, and I'll go ashore with you directly." But the prisoner replied, "No, you are my officer now, but if you don't see me, I'll post you; for you'll talk and chatter, and that's all you can do." In a little time, the deceased bade the prisoner go look after the sick men; and he answered, "You are not my captain" now, for captain Boyle is "come on board again." In the evening, the prisoner told Mr. Young (the master's first mate) that the captain had given him leave for the boat in the morning.

Andrew Wittin. The prisoner, on the 27th of September, came on the quarter-deck, went into the master's cabin, and fetched me a can of flip. He then went to the cabin-door of the deceased, and having just opened it, said something to him; and about half an hour after five the boat was lowered and manned for him. He gave his sword to the coxswain, bid him take as much care of it as he would of his blood, and followed him into the boat, and put off directly.

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The deceased came immediately to me, and asked me, who was gone ashore? I told him; and he replied, that he would be with him presently. His coxswain returned with the boat, and told the deceased, that the prisoner gave his service to him, and desired him to make haste, for it was very cold. "I may be there time enough to his cost," said the deceased; and thereupon stepped into the boat, and put off; and in a quarter of an hour the boat was brought back with Mr. Bignell lying in it dead. The boat was again ordered ashore to fetch the prisoner on board. I went in it with Mr. Weston, the second lieutenant, and when we came to the prisoner, he freely surrendered himself. He afterwards told me, that he was put upon it by a certain person, and pointed to Mr. Weston's cabin-door; who, he said, was a rogue, or else he had not done it.

James Naves, the coxswain. I was called up about five in the morning to man the boat, which I did; the prisoner came into it, and bid me put him ashore on a very small island, which the ship lay against. As soon as he was landed, he ordered me to return, and give his service to the deceased, and tell him, it was a very cold morning, and he could not wait long. When I came on board, I found the deceased walking on the quarter-deck, and delivered

D

my

my message to him. He replied, " I may be ashore by
 " and by to his sorrow ;" and then gave me a pair of pistols,
 wrapt up in red bays, to carry into the boat, which I did;
 he presently followed, and bid me row him to the place
 where the prisoner was. When we came to land, the de-
 ceased unbuttoned his waistcoat, and desired me to observe,
 that he was naked breasted. He ordered the boat's crew to
 stay in the boat, and me to follow him with the pistols. As
 soon as we came up to the prisoner, he shook him by the hand,
 and asked him, what he wanted with him? I did not hear
 the prisoner answer; but the deceased replied, " We shall
 " decide this matter presently;" and then gave him some
 pistol catridges, bidding him take his choice of the pistols.
 Thereupon the deceased came to my right side, and the
 prisoner to my left, in order, as I thought, to take the pistols
 from me. The prisoner's sword was in his left hand in the
 scabbard, and the deceased stooping, though I know not up-
 on what occasion, the prisoner drew his sword, and struck
 him with it two or three times on the head; upon which the
 deceased leaped from him to draw; but before he could do
 it, the prisoner run him into the belly, and the left breast,
 over the left pap. The deceased having got out his sword,
 made two or three passes at the prisoner; but the sword
 faltered in his hand, and the prisoner continued pushing at
 him till he fell with his legs under him. This was all done
 in

in about three minutes; and then I called the boat's crew to take care of the deceased, who said, when they took hold of him, " This villain hath killed me before I drew my sword ;" so he expired immediately. That the prisoner struck the deceased over the head, and stabbed him two or three times before he could draw, that the deceased said, " The villain hath killed me before I drew my sword," and the most material particulars of the last deposition, were confirmed by John Burd, William Baker, and John Slade, they being the men, who, with the foregoing witnesses, James Naves, rowed the prisoner and the deceased ashore, and saw all that past.

Mr. Cannon, the surgeon, being called again, deposed, that the deceased had no wound in his belly.

The

The Prisoner's Defence.

George Weston, the second lieutenant. I heard the deceased challenge the prisoner, and tell him, if he loved fighting, he would give him enough of it; to which the prisoner answered, "No; if ever I quarrel, it shall be on the right side of the hedge.---You are my officer." The prisoner assured the captain, (when he got leave for the boat) that the deceased and himself were friends, and that he was only going ashore for his health. When I went to fetch the prisoner off from the island, he readily surrendered himself, and gave me his sword and the pistol-catridges, and told me, that the deceased had spit in his face, and called him villain. When the deceased was at Sheerness, the prisoner lent him money to go to London with.---The deceased was foul-mouthed and quarrelsome; and the prisoner was very good-humoured, and hath made up several quarrels. It was my sword that he killed the deceased with; for, in coming up the scuttle, I bent the point of it, and gave it to the armourer to streighten, but without any view of fighting; and

and the armourer let the prisoner have it without my knowledge.

George Young. The prisoner came upon the quarter-deck, told me, that he had got leave to take the boat in the morning, and desired me to call him at four o'clock. I asked him where he was going, he answered, on shore for his health; and that, when he returned, he would give me part of a bottle of wine, it being his birth-day.

Mr. Symmonds. The quarrel betwixt the prisoner and the deceased, was about a prize that was taken on the coast of Scotland, bound from Rotterdam to the Isle of Man. The captain having received a letter concerning the affair, he believed it would not be condemned as a prize. The deceased thereupon, offered to sell his share of it for two guineas, which the prisoner agreed to give him; but upon his desiring the deceased to assign it over to him, he refused, and called the prisoner all the ill names imaginable.—— The deceased, was as foul-mouthed a fellow as ever God put guts into. He was very abusive to captain Boyle, to his friends, that fed and cloathed him; and, in short, to every body else. He not only borrowed the prisoner's money, but wore his shirts too; and ingratiated himself with the sailors, in order to set them against their officers.

E

Richard

Richard Chamberlain. The deceased was second lieutenant on board the Gibraltar for sixteen months; when I was first lieutenant of the same ship, there he affronted and abused me, struck and kicked me so, that I was forced to get a discharge.

Francis Davis. I heard the deceased challenge the prisoner, who answered, "I know better than to fight my superior officer."

Richard Armstrong, the armourer. Mr. Weston brought me a sword to streighten, and I, having made a little dent in doing it, took my file to smooth it; but did not sharpen it; and that was the sword the prisoner did the fact with.

Mr. Hunt. I viewed the body of the deceased twice, and discovered about eighteen wounds, but none in the belly; that on the left breast was mortal. The prisoner had two wounds, one of which was three inches and a half deep, and the other four inches, made by a sword. If the deceased had received the wound in the breast first, I believe, he could not have stood to have received the others afterwards; but he might have made some resistance.

Mr. Jackson and *Mr. Pool* deposed, That the deceased had the character of a foul-mouthed, malicious, quarrelsome person;

person; and they, and four or five other gentlemen gave a good character of the prisoner.

The court having summed up the evidence on both sides, the jury found the prisoner guilty of the indictment, and sentence of death was pronounced accordingly.

Edward Ely was born in Bloomsbury, London. His father, being a gentleman of a considerable estate, gave him (and his other children) a genteel education, and put him apprentice to Mr. Gibson, a noted surgeon in Ludgate-street. He went to sea in quality of a surgeon's mate, while he was very young; but soon returned home, and continued in England nine or ten years. About the time of the battle of Glensch-hill, when the Marquis of Huntley, and the Lord Tullibardine were in arms in Scotland, he was in one of the seven ships, that lay to oppose the rebels, and cut them off from their provisions, laid up in the garrisons on the sea-shore.

While he was under condemnation, he frequently spoke of the friendship that was betwixt himself and the deceased, before their unfortunate quarrel. He said, that he had used the lieutenant like a brother, that he lent him ten guineas, and his best linen, when he went to London, to make his application to the Lord High-admiral for preferment, and
that

that though they quarrelled about two guineas, yet he never took a note of Mr. Bignell for what he lent him. That they were hardly ever separate, but kept the same company, and when on shore were almost continually shooting or hunting together; their first acquaintance having been occasioned by such kind of sport.

His behaviour did not appear to disagree with the melancholy circumstance he lay under. He shewed a great regret for his offence.

He complained much of a sea-faring life. He was serious and composed, and constantly attended the public prayers, and sometimes desired the ordinary (T. Purney) to pray with him in private. A few days before the execution, he said, he was out of love with the world, and well satisfied to die in expectation of eternal life.

He was executed at Tyburn on Wednesday, Feb. 8, 1720, in the thirty-second year of his age.



